

Remarks:*Amendments to the claims; new claims:*

Without prejudice or traverse, kindly enter in the indicated amendments to the claims, and enter the newly presented claims.

The applicants expressly reserve their right to reenter any canceled subject matter further in the prosecution of the present application, or in new claims which may be presented in a continuation, continuation in part or divisional application(s) which may be filed at a later date.

The applicant thanks the Examination for the full consideration of the prior art of record, and in recognizing allowable subject matter in claims 17, and 19-24.

Regarding the rejection of claim 1 under 35 USC 112, 2nd paragraph:

The applicant respectfully traverses the Examiner's objection to the claim and requests reconsideration of the rejection. The Examiner's attention is directed to pages 9 – 11 of the applicant's specification which discusses particulate moieties. The applicant's use of the claim term "particulate moieties" is proper in view of the specification; the compositions require at least a hydrophilic particulate moiety, and a hydrophobic particulate moiety, hence the use of the plural term "moieties". . It is well settled in the law that a patent application may be their own "lexicographer", *see e.g., Autogiro Co. of America vs. U.S.* 155 USPQ 697 (Ct.Cl., 1967) at pp 702, 707-708. Applicant's specification as published, provides clear support for "particulate moieties", and the rejection should properly be withdrawn.

Regarding the rejection of claims 1, 4, 6-12 and 14 under 35 USC 102(b) in view of WO 02/069917 to Glenn et al. (hereinafter "Glenn"):

As the presently amended claims include the limitations of prior claim 17, the newly presented amended claim 17 and all dependent claims are believed to be allowable, and

US Serial No. 10/552573
Page 7 of 9

thus render the present rejection in view of Glenn as moot. Withdrawal of the present rejection is solicited.

Regarding the rejection of claims 1, 4, 6, 8-12 and 14 under 35 USC 102(b) in view of US 5985177 to Yoshida, et al (hereinafter "Yoshida"):

As the presently amended claims include the limitations of prior claim 17, the newly presented amended claim 17 and all dependent claims are believed to be allowable, and thus render the present rejection in view of Yoshida as moot. Withdrawal of the present rejection is solicited.

Regarding the rejection of claims 1, 9-12 and 14 under 35 USC 102(b) in view of US 2002/0077372 to Gers-Barlag et al (hereinafter "Gers-Barlag"):

As the presently amended claims include the limitations of prior claim 17, the newly presented amended claim 17 and all dependent claims are believed to be allowable, and thus render the present rejection in view of Gers-Barlag as moot. Withdrawal of the present rejection is solicited.

Regarding the rejection of claims 1, 3, 4, 6-12 and 14 under 35 USC 102(e) in view of US 2003/0175317 to Barthel et al (hereinafter "Barthel"):

As the presently amended claims include the limitations of prior claim 17, the newly presented amended claim 17 and all dependent claims are believed to be allowable, and thus render the present rejection in view of Barthel as moot. Withdrawal of the present rejection is solicited.

Regarding the rejection of claims 1, 3, 4, 6-12, 14 and 16 under 35 USC 103(a) in view of US 2003/0133957 to Amalric, et al. (hereinafter "Amalric"):

As the presently amended claims include the limitations of prior claim 17, the newly presented amended claim 17 and all dependent claims are believed to be allowable, and thus render the present rejection in view of Amalric as moot. Withdrawal of the present rejection is solicited.

US Serial No. 10/552573
Page 8 of 9

Regarding the rejection of claims 1, 3, 4, 9-12 and 14 under 35 USC 103(a) in view of US 6022547 to Herb et al. (hereinafter "Herb")):

As the presently amended claims include the limitations of prior claim 17, the newly presented amended claim 17 and all dependent claims are believed to be allowable, and thus render the present rejection in view of Herb as moot. Withdrawal of the present rejection is solicited.

Regarding the rejection of claims 1, 3, 4, 6,-12, and 14 under 35 USC 103(a) in view of US 2003/0149102 to Afriat et al (hereinafter "Afriat")):

As the presently amended claims include the limitations of prior claim 17, the newly presented amended claim 17 and all dependent claims are believed to be allowable, and thus render the present rejection in view of Afriat as moot. Withdrawal of the present rejection is solicited.

Should the Examiner in charge of this application believe that telephonic communication with the undersigned would meaningfully advance the prosecution of this application, they are invited to call the undersigned at their earliest convenience.

The early issuance of a *Notice of Allowability* is solicited.

CONDITIONAL AUTHORIZATION FOR FEES

Should any further fee be required by the Commissioner in order to permit the timely entry of this paper, the Commissioner is authorized to charge any such fee to Deposit Account No. 14-1263.

Feb. 9, 2010 4:48PM

No. 0295 P. 9

US Serial No. 10/552573
Page 9 of 9

Respectfully Submitted;

Andrew N. Parfomak

Andrew N. Parfomak, Esq.

Reg. No. 32,431

Norris, McLaughlin & Marcus
875 Third Avenue, 18th Floor
New York, NY 10022

09. Feb. 2010

Date:

Tel: 212 808-0700

CERTIFICATE OF TELEFAX TRANSMISSION UNDER 37 CFR 1.8

I certify that this document, and any attachments thereto, addressed to the:
"Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" is being
telefax transmitted to (571) 273-8300 at the United States Patent and Trademark Office.

Allyson Ross

Allyson Ross

09. Feb. 2010

Date

C:\ANPCMB\102792\495\Amendment03.doc